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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/022,027	12/13/2001	Bruce Barger	8711RR	4900

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EXAMINER

CARRILLO, BIBI SHARIDAN

ART UNIT	PAPER NUMBER
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1746

DATE MAILED: 09/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/022,027

Applicant(s)

BARGER ET AL.

Examiner

Sharidan Carrillo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 July 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 22,23 and 25-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 22,23 and 25-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 22-23 and 25-27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 22 and 27 are indefinite because of the term "capable". The examiner suggests amending the claims to recite "a polymer which renders the surface hydrophilic". Claim 22 is further indefinite because it is unclear whether the rinsing of step © is done using purified rinse water. Claim 27 is further indefinite because it is unclear whether the cleaning solution of step (b) is the same or different from the cleaning solution recited in step a.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.

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2. Ascertaining the differences between the prior art and the claims at issue.
  3. Resolving the level of ordinary skill in the pertinent art.
  4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 22-23 and 25-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aubay et al. (WO01/05920) in view of Yeiser (WO 98/01223).

Aubay et al. teaches a method of cleaning and rinsing vehicles using the cleaning composition, as structurally recited in claim 23, refer to pages 35 and 68. The limitations of step (d) are met since Aubay et al. teach rinsing the vehicle. Aubay et al. further teaches cleaning, followed by rinsing and drying. In reference to claim 25, refer to page 35 of Aubay et al. In reference to claim 26, refer to page 43, line 7 of Aubay et al.

Aubay et al. teach the invention substantially as claimed with the exception of rinsing the vehicles with purified rinse water using a hose-end purifying device.

Yeiser teaches a hand-held water sprayer for use in washing vehicles. On pages 3-4, bridging Yeiser teaches washing the vehicles by first washing with a

cleaning solution, followed by rinsing with tap water to remove the washing solution, and then rinsing the demineralized water for purposes of removing the tap water rinse. On page 4, lines 20-25, and page 18, lines 30-35, Yeiser teaches the sprayer having an purifying device comprising an ion-exchange resin 404 (Fig. 13). On page 18, lines 8-10, Yeiser teaches that the sprayer can be fitted with a conventional garden hose trigger control valve.

It would have been obvious to a person of ordinary skill in the art to have modified the method of Aubay et al., to include the sprayer of Yeiser having a ion-exchange resin, for purposes of purifying the water used for rinsing of the vehicles.

7. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Aubay et al. (WO01/05920) in view of Yeiser (WO 98/01223) and further in view of Chura et al. (5595345).

Aubay et al. teaches a method of cleaning and rinsing vehicles using the cleaning composition, refer to pages 35 and 68. The limitations of step (d) are met since Aubay et al. teach rinsing the vehicle. Aubay et al. further teaches cleaning, followed by rinsing and drying.

Aubay et al. teach the invention substantially as claimed with the exception of rinsing the vehicles with tap water followed by purified rinse water. Aubay et al. further fail to teach a spray device having a water purifier and a valving system.

Yeiser teaches a hand-held water sprayer for use in washing vehicles. On pages 3-4, bridging Yeiser teaches washing the vehicles by first washing with a cleaning solution, followed by rinsing with tap water to remove the washing solution, and

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then rinsing the demineralized water for purposes of removing the tap water rinse. On page 4, lines 20-25, and page 18, lines 30-35, Yeiser teaches the sprayer having an purifying device comprising an ion-exchange resin 404 (Fig. 13). On page 18, lines 8-10, Yeiser teaches that the sprayer can be fitted with a conventional garden hose trigger control valve.

It would have been obvious to a person of ordinary skill in the art to have modified the method of Aubay et al., to include the sprayer of Yeiser having a ion-exchange resin, for purposes of purifying the water used for rinsing of the vehicles.

It would have been obvious to a person of ordinary skill in the art to have modified the method of Aubay et al. to include rinsing with tap water, followed by purified rinse water, as taught by Yeiser for purposes of initially removing the cleaning solution and further rinsing with purified water to remove the tap water.

Aubay et al. in view of Yeiser teaches the invention substantially as claimed with the exception of a sprayer having a valving system. Chura et al. teach a sprayer 2 having a multi-position valving member 40 for purposes of selectively spraying the cleaning solution and the rinsing solution onto the surface to be cleaned.

It would have been obvious to a person of ordinary skill in the art to have modified the modified method of Aubay et al., to include a sprayer having a valving system, as taught by Chura et al. for purposes of selectively spraying the cleaning or rinsing solutions onto the surface in a convenient manner.

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### ***Double Patenting***

8. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

9. Claims 22-23 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 3 of copending Application No. 09/972090. Although the conflicting claims are not identical, they are not patentably distinct from each other because both applications are claiming cleaning and treating a surface of the vehicle with the polymer having the general formula I, as recited in claim 23 of the instant invention.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

### ***Response To Arguments***

10. The rejection of the claims under 112, first paragraph is withdrawn in view of corrections made by applicant.

11. The rejection of the claims under 112, second paragraph is maintained for the reasons set forth above.

12. The rejections of the claims as being anticipated and unpatentable over Aubay et al. are withdrawn in view of the newly amended claims. A new grounds of rejection is being applied in view of the teachings of Chura et al. and Yeiser.

13. The double-patenting rejection is maintained since applicant has not filed a terminal disclaimer.

14. Applicant argues that the prior art of Aubay et al. or Cahan fail to teach rinsing the surface of a vehicle using a hose-end water purifying device. The secondary reference of Yeiser is relied upon to cure the above deficiency.

15. Applicant's arguments filed 7/7/03 have been fully considered but are deemed unpersuasive for the reasons recited above.

16. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of



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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sharidan Carrillo whose telephone number is 703-308-1876. The examiner can normally be reached on Monday-Friday, 6:00a.m-2:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Randy P. Gulakowski can be reached on 703-308-4333. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7719 for regular communications and 703-305-7719 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

Sharidan Carrillo  
Primary Examiner  
Art Unit 1746

bsc  
September 12, 2003



SHARIDAN CARRILLO  
PRIMARY EXAMINER